



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO  
Hall of Justice and Records  
400 County Center  
Redwood City, California 94063-0965

NEAL TANIGUCHI (650) 261-5016  
COURT EXECUTIVE OFFICER  
CLERK & JURY COMMISSIONER

March 27, 2023

To All Interested Persons,

The Court is making changes to its Local Court Rules. These new changes will become effective July 1, 2023. The Court invites you to review and provide your comment on these proposals as afforded pursuant to the State of California Rules of Court, Rules 10.613 and 10.815.

You may send your comments to: [smsccomment@sanmateocourt.org](mailto:smsccomment@sanmateocourt.org) with a subject line stating "Comments on Proposed Rule Changes". Please state the section and paragraph number on which you are commenting and your comment.

Comments must be received by no later than **Friday, May 12, 2023 at 4:30 P.M.**

Sincerely,  
Neal Taniguchi, Court Executive Officer

A handwritten signature in cursive script that reads "Blake Cox".

By: Blake Cox  
Court Rules Committee Staff

**Title LOCAL RULE 5.1 Applicability of Rules**

**Proposed Changes**  
(Insert any new text in ***bold and italicized font.***  
~~Strike through any~~  
deleted text.)

Local Rule 5.1: Applicability of Rules

Family law proceedings are governed by the California Rules of Court as supplemented by these local rules of the San Mateo County Superior Court. These rules are intended to provide uniformity of practice and procedure among all departments involved in family law matters. These Rules shall at all times be supplementary and shall be construed and applied so they do not conflict with the California Rules of Court, and any rules adopted by the Judicial Council, and relevant case and statutory law.

Attorneys and self-represented litigants (also known as pro pers) shall comply with all applicable statutes in addition to these local family law rules and the California Rules of Court. Where these rules refer to Superior Court forms, the equivalent Judicial Council forms shall also be accepted.

Self-represented litigants shall be treated in the same manner as if represented by counsel and shall be held to the same standards. All references to counsel in these rules apply equally to self-represented litigants.

**Failure to comply with local rules may result in sanctions under the Superior Court of California, County of San Mateo Local Court Rule 0.2**

Title	LOCAL RULE 5.3 Matters Heard in Family Law Department
<p><b>Proposed Changes</b>            (Insert any new text in <b>bold and italicized font</b>.  <del>Strike through any</del>            deleted text.)</p>	<p>Rule 5.3 Matters Heard in Family Law Department</p> <p>Matters to be heard in the Family Law Department shall include:</p> <p>A. All <del>orders to show cause, motions,</del> <b>requests for orders</b> and other family law matters preliminary to trial; all defaults under the Family Code; and all required settlement conferences and trials;</p> <p>B. All <b>requests for orders and</b> orders to show cause <del>and motions</del> relating to enforcement or modifications of family law orders or judgments;</p> <p>C. All <del>orders to show cause and motions</del> <b>requests for orders</b> relating to child custody, support, visitation, or attorney’s fees and costs under the Uniform Parentage Act (Family Code §7600 et. seq.) and the Uniform Child Custody Jurisdiction Act (Family code §3400 et. seq.);</p> <p>D. All proceedings under the Revised Uniform Reciprocal Enforcement of Support Act (Family Code §4800 et. Seq.);</p> <p>E. All applications for restraining orders enjoining domestic violence under the Family Law Act, the Uniform Parentage Act, and the Domestic Violence Prevention Act (Family Code §6800 et. Seq.);</p> <p>F. All family law discovery matters;</p> <p>G. All applications for issuance of writs of execution and habeas corpus, or warrants in lieu thereof, in family law cases;</p> <p>H. All <del>motions</del> <b>requests for orders</b> for change of venue in family law cases;</p> <p>I. All stipulations by the parties for appointment of a referee, private judge, or Special Master pursuant to CCP §638, or alternative dispute resolution, or any request by a party for the court to order a referee or Special Master pursuant to CCP §639.</p>

<b>Title</b>	<b>LOCAL RULE 5.7.1 Tentative Rulings for Requests for Orders, Orders to Show Cause, and Notices of Motion</b>
<p><b>Proposed Changes</b>          (Insert any new text in <b>bold and italicized font</b>.          Strike through any deleted text.)</p>	<p><del>5.7.1 Tentative Rulings for Requests for Orders, Orders to Show Cause, and Notices of Motion</del></p> <p>Tentative rulings by any judge assigned to the Family Law Department on a Request for Order, Order to Show Cause, or Notice of Motion set for hearing shall be posted by 3:00 p.m. one court day prior to the hearing or other proceeding. Counsel for the parties and/or any self-represented parties shall obtain the tentative ruling by telephoning (650) 261-5019 after 3:00 p.m. or by accessing the court's website at:  <a href="http://www.sanmateocourt.org/online_services/tentative_rulings.php">http://www.sanmateocourt.org/online_services/tentative_rulings.php</a> under the category "Family Law Calendar Tentative Rulings." Parties seeking to contest the tentative rulings and present oral argument at the hearing or other proceeding shall notify all other parties and the Court by 4:00 p.m. on the court day before the hearing or other proceeding of that party's intention to appear. That party shall notify the Court by telephoning (650) 261-5019 by 4:00 p.m. The tentative ruling will automatically become the ruling of the Court if the Court has not directed oral argument by its tentative ruling and notice of intent to appear has not been timely given.</p>

**Title LOCAL RULE 5.8 Trial Setting, Status Conference, and Mandatory Settlement Conference Rules**

**Proposed Changes**  
(Insert any new text in **bold and italicized font**.  
~~Strike through~~ any deleted text.)

Rule 5.8 Trial Setting, Status Conference, and Mandatory Settlement Conference Rules

C. Status Conference:

4. Required Statement: At least ~~15~~ **5** days prior to the initial Status Conference the parties shall file with the court and serve on all other parties a completed Status Conference Statement (see Local Court form FL-03) a copy of which is available at the clerk's office or through the court's website: [www.sanmateocourt.org](http://www.sanmateocourt.org). The parties may elect to file a jointly prepared Status Conference Statement.

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8. Sanctions: ***Upon notice and opportunity to be heard,*** ~~The~~ ***the*** court may impose sanctions if a Status Conference Statement is not timely filed and served, a Status Conference Statement is not fully completed, a party or his/her attorney fails to appear, an attorney or self-represented party is not fully prepared to discuss the case or lacks the authority to discuss and resolve any issues that arise at the conference including but not limited to discovery matters and the setting of subsequent court dates.

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**Title** LOCAL RULE 5.4.1 Informal Discovery Conferences in Family Law Proceedings

**Proposed Changes**  
 (Insert any new text in bold and italicized font. Strike through any deleted text.)

***Rule 5.4.1 Informal Discovery Conferences in Family Law Proceedings***

***(a) Informal Discovery Conference. In all family law proceedings as defined by CRC Rule 5.2(b)(3), parties are encouraged to hold an Informal Discovery Conference with the Court prior to filing a motion to compel or any other discovery motion. Counsel must have exhausted all meet and confer obligations before the Informal Discovery Conference.***

***(b) Permissive Informal Discovery Conference with Third Parties. Informal Discovery Conferences are permitted for discovery disputes with non-parties as well, pursuant to the same procedures described below.***

***(c) Conducted by Family Law Commissioner. Informal Discovery Conferences will be scheduled with and conducted by the Family Law Commissioner. As an Informal Discovery Conference does not involve the adjudication of any issue of disputed law or fact by the Family Law Commissioner, Code of Civil Procedure Section 170.6 does not apply. The outcome of an Informal Discovery Conference does not bar a party from subsequently filing a discovery motion or prejudice the disposition of a discovery motion.***

***(d) Remote Only. Informal Discovery Conferences in family law cases are conducted remote only by Zoom, and are not recorded by any party and are not reported by any court reporter.***

***(e) Request for Informal Discovery Conference.***

***(i) To request an Informal Discovery Conference, counsel must contact the Department of the Family Law Commissioner by email which email must be contemporaneously copied to counsel for all parties to the action and any self-represented parties. Prior to making a request with the department, counsel shall obtain the consent of opposing counsel in writing to engage in an Informal Discovery Conference. Any party requesting an Informal Discovery Conference shall identify the case name and number, the name of the party requesting the Informal Discovery Conference, the date and time reserved by that party for the Informal Discovery Conference, and the estimated length of the IDC session.***

***(ii) To reserve a date and time for the Informal Discovery Conference, the requesting party shall consult Family Law Direct Calendar of the Family Law Commissioner on the Court’s website at [www.sanmateocourt.org](http://www.sanmateocourt.org), and request in the email (under subsection (e)(i) above) an IDC session for a date that is, at least, ten calendar days, but no later than 29 calendar days, from the date of the request for Informal Discovery Conference.***

***(f) Tolling of Deadline to File Motion. By agreeing to engage in an Informal Discovery Conference, parties agree that the time for bringing any motion to compel or other discovery motion is tolled, starting on the date a party makes the email request for an Informal Discovery Conference to the Court. All requests for Informal Discovery Conference must be made well prior to the expiration of the statutory time to bring a motion to compel or other discovery motions. Tolling shall be automatically lifted upon completion of the Informal Discovery Conference; and the time in which to bring a discovery motion shall continue to run thereafter, unless otherwise agreed by the parties in writing, or unless otherwise agreed by the parties at the Informal Discovery Conference and placed in the Court's Minutes including an affirmative waiver of the statutory requirement that it be in writing.***

***(g) Email Correspondence Detailing Discovery Dispute.***

***(i) Within five (5) calendar days of the initial email request to the Court for an Informal Discovery Request, the disputing parties shall, jointly or separately, email correspondence to the department email address for the Family Law Commissioner, and contemporaneously to all parties, an electronic letter of no more than five (5) pages, without attachments, summarizing the discovery dispute(s). It shall include on the first line (i) the case name and number, (ii) the date and time reserved by the parties for the Informal Discovery Conference, and (iii) the estimated length of the IDC session.***

***(ii) Failure to timely provide the Court with email correspondence summarizing the discovery dispute(s) may, and likely will, result in the Informal Discovery Conference being vacated/cancelled, and tolling of the time to file and serve any discovery motion will cease.***

***(h) Statutory Declaration Waived. The Court waives the statutory requirement for the parties involved in the discovery dispute to file "meet and confer" declarations pursuant to Code of Civil Procedure Sections 2016.040 or 2016.080(b) prior to the Informal Discovery Conference. The dispute will be addressed by the e-correspondence method/procedure set forth above; and the parties are requested not to file any such declarations unless and until the Informal Discovery Conference is unsuccessful and a formal discovery motion is subsequently filed.***

***(i) Email Requirements.***

***(i) All communications to the department email address for the Family Law Commissioner must include in the header "subject line" the Case Number and Name of Case (e.g., 19FAM06543 Smith v. Jones).***

***(ii) All correspondence regarding any Informal Discovery Conference, such as IDC letter briefs, requests to take matters off calendar, and requests for rescheduling, shall be submitted electronically, rather than paper, to the department email address for the Family Law Commissioner. All electronic correspondence must be sent in at least 12-point type. The email address is for***

*the sending and receiving of correspondence, and is not a venue for back-and-forth communications with the Family Law Commissioner.*

*(iii) Communications to the department's email address are not part of the official court files; and will be retained for at least 90 days and then be subject to deletion (destruction) thereafter.*

*(j) Authorization of Family Law Commissioner.*

*(i) Good cause appearing, the Family Law Commissioner may, and is authorized to, continue the Informal Discovery Conference, or schedule further proceedings on the same discovery disputes via Informal Discovery Conference. The Family Law Commissioner shall enter minutes in the family law case docket indicating that an Informal Discovery Conference was held, the date held, the counsel and parties attending, and whether or not all discovery disputes were resolved.*

*(ii) If a party to a discovery dispute is notified of the Informal Discovery Conference and fails to appear, the Family Law Commissioner may, and is authorized to, reschedule or cancel the Informal Discovery Conference, or issue an Order to Show Cause Re: Sanctions for failure to appear.*

*(k) Motion if Unresolved Discovery Disputes. If any discovery dispute is not resolved following the Informal Discovery Conference, any party may proceed to file and calendar hearing on a motion to compel or other discovery motion in the department of the Family Law Judge assigned to that case.*

**Title** | **LOCAL RULE 5.16.6 Use of Confidential Juvenile Case Files or Child Welfare Agency Records in Family Court Matters**

**Proposed Changes**  
(Insert any new text in **bold and italicized font**.  
~~Strike through~~ any  
deleted text.)

*Local Rule 5.16.6: Use of Confidential Juvenile Case Files or Child Welfare Agency Records in Family Court Matters*

*All documents obtained from any juvenile case file or from any child welfare agency must be treated as confidential by all parties and attorneys pursuant to WIC 827, 827.10, and Cal. Rules, Rule 5.552. Any party who seeks to file with or present to the Family Court any juvenile case file or child welfare agency document or record must first present a request to file such documents under seal pursuant to Cal. Rules, Rules 2.550 and 2.551. Any pleading filed with the Family Court which attaches, recites or quotes any juvenile case file or child welfare agency record without a prior request and order to file under seal will be stricken from the Family Court file.*

Title	Division V, Appendix 2: Long Cause Trial Rules Checklist
<p><b>Proposed Changes</b>            (Insert any new text in <b>bold and italicized font</b>.  <del>Strike through any</del>            deleted text.)</p>	<p><u>Appendix 2: Long Cause Trial Rules Checklist</u></p> <p>A. SEVEN COURT DAYS OR MORE BEFORE TRIAL</p> <ol style="list-style-type: none"> <li>1. Personally meet and confer with opposing counsel.</li> <li>2. Exchange trial briefs</li> <li>3. Where support or fees are at issue, exchange Income &amp; Expense Declarations with required attachments.</li> <li>4. Exchange list of exhibits (see Local Court form FL-CV-09A) and copies of exhibits.</li> <li>5. Exchange list designating non-party witnesses (including name, address and telephone number) (see Local Court form FL-CV-11] and the subject matter each will testify to.</li> </ol> <p>B. <del>FOUR</del> <b>FIVE</b> COURT DAYS BEFORE TRIAL</p> <ol style="list-style-type: none"> <li>1. Confer with opposing counsel telephonically to discuss objections to the exhibits and in limine motions.</li> <li>2. If objections to exhibits unresolved, or motion in limine to be filed, schedule appointment for pre-trial conference.</li> <li>3. File with the court and serve in limine motions (see Local Court form FL-10]</li> <li>4. Arrange with clerk to pre-mark exhibits and file original exhibits.</li> <li>5. File trial brief, Income &amp; Expense Declaration and court's copy of the exhibits in trial department.</li> </ol> <p>C. THREE COURT DAYS BEFORE TRIAL</p> <ol style="list-style-type: none"> <li>1. File with clerk of trial department and opposing counsel a written list of objections to the exhibits (see Local Court form FL-09].</li> </ol> <p>D. TWO COURT DAYS BEFORE TRIAL</p> <ol style="list-style-type: none"> <li>1. If there are unresolved objections to exhibits or if motions in limine were filed, confer personally with the court through the clerk.</li> </ol> <p>E. DAY OF TRIAL</p> <ol style="list-style-type: none"> <li>1. All objections to exhibits and motions in limine will be heard and a ruling will be issued.</li> <li>2. Each counsel must pay the mandated statutory court reporter fee for each half day of trial.</li> <li>3. At the conclusion of each day of trial, the court and counsel shall review the next days' witnesses, examination time and other calendaring issues.</li> </ol>

PROPOSED LOCAL RULE AMENDMENTS effective July 1, 2023:

**CIVIL LAW & MOTION CALENDAR**

Rule 3.400 **Law and Motion in Single Assigned Civil Cases.** All Law and Motion matters in all general civil cases as defined by Rule 1.6(4) of the California Rules of Court, ~~and all unlawful detainer actions pursuant to Code of Civil Procedure Section 1159 et seq.~~, are heard by the Civil Judge assigned to that civil case.

**3.500 Ex Parte Applications in General Civil Actions and Unlawful Detainer Actions**

(a) Ex parte applications in general civil actions ~~and unlawful detainer actions~~ are heard by the Civil Judge assigned to that civil case. The Department of each Civil Judge is available for ex parte applications two days per week at 1:30 p.m. Parties and their counsel must check the Court's website at [www.sanmateocourt.org](http://www.sanmateocourt.org) under the Civil Departments section for the specific days of the week when ex partes are heard by the assigned Civil Judge. The parties must meet all requirements of CRC Rule 3.1200 et seq.

(b) The applicant shall pay any ex parte application filing fee due to the Clerk of the Court prior to presenting the ex parte application to the Civil Judge. Except where the ex parte applicant has previously been granted a fee waiver, the applicant shall pay the ex parte application filing fee prior to presenting the ex parte application to the Civil Judge. **See the court's website for further information regarding payment of fees.** Ex parte applications and proof of payment must be received directly by the courtroom clerk for the Department of the assigned Civil Judge no later than 15 minutes from the time set for ex parte hearings.

(c) Ex parte applications, ex parte oppositions, and all other ex parte filings must be submitted and filed in paper form, and cannot be electronically filed. Failure to present a proposed order at the time of presentation of the ex parte application will result in denial of the ex parte application.

(d) Ex parte applicants and opponents must appear in person, subject to the exceptions set forth in CRC Rule 3.1207, as ex parte ~~telephone~~ **remote** appearances cannot be accommodated at the present time.

**3.600 Correspondence with Civil Departments**

(a) **Mandatory Electronic Correspondence to Civil Departments.** Correspondence to the Department of any Civil Judge, such as requested letter briefs, requests to take matters off calendar, and requests for rescheduling, regarding civil actions assigned to a Civil Judge shall be submitted electronically, rather than paper, by e-mail addressed to that Civil Department. For example, emails to Department 2 shall be addressed to: [Dept2@sanmateocourt.org](mailto:Dept2@sanmateocourt.org). All electronic correspondence must be sent in at least 12 point type. ***All electronic correspondence with the Department of any Civil Judge must also be contemporaneously sent to opposing counsel or opposing self-represented parties.*** The Department's email address is for the sending and receiving of correspondence, and is not a venue for back-and-forth communications with the Civil Judge. Communications to the Civil

Department email address is not part of the official court files – just like a paper letter, they are not “filed” documents – and will be retained for at least 90 days and then be subject to deletion (destruction) thereafter.

(b) **Mandatory Email Header.** All communications to any Civil Department email address must include in the header “subject line” the Case Number and Name of Case (e.g., 20CIV04321 Smith v. Jones).

### 3.700 Informal Discovery Conferences in General Civil Actions.

(a) **Mandatory Informal Discovery Conference.** Pursuant to Code of Civil Procedure Section 2016.080, ~~in~~ all general civil cases actions as defined by CRC Rule 1.6(4), no party may move to compel discovery or file any other discovery motion until the parties have had an Informal Discovery Conference with the Court. Counsel must have exhausted all meet and confer obligations before the Informal Discovery Conference.

(b) **Permissive Informal Discovery Conference with Third Parties.** The procedures set forth in Local Rule 3.700 apply to parties. With regard to discovery disputes with non-parties, the non-parties may elect to participate in the Informal Discovery Conference procedure, but are not required to do so.

(c) **Conducted by Civil Commissioner.** Informal Discovery Conferences will be scheduled with and conducted by the Civil Commissioner. As an Informal Discovery Conference does not involve the adjudication of any issue of disputed law or fact by the Civil Commissioner, Code of Civil Procedure Section 170.6 does not apply. Pursuant to Code of Civil Procedure Section 2016.080(e), ~~the~~ outcome of an Informal Discovery Conference does not bar a party from subsequently filing a discovery motion or prejudice the disposition of a discovery motion.

(d) **Remote Only ~~by Conference Call~~.** Informal Discovery Conferences are conducted remote only by telephone conference call, set up by the party requesting the IDC, *or remote only using Zoom*, and are not recorded by any party and are not reported by any court reporter.

(e) **Request for Informal Discovery Conference.**

(i) To request an Informal Discovery Conference, counsel must contact the Court by email at [IDC@sanmateocourt.org](mailto:IDC@sanmateocourt.org), which email must be contemporaneously copied to counsel for all parties to the action and any self-represented parties. Any party requesting an Informal Discovery Conference shall identify the case name and number, the name of the party requesting the Informal Discovery Conference, the date and time reserved by that party for the Informal Discovery Conference, *and* the estimated length of the IDC session, ~~and the telephone number and any access code for the IDC conference call (which the requesting party is required to set up and schedule themselves).~~

(ii) To reserve a date and time for the Informal Discovery Conference, the requesting party shall consult the Informal Discovery Conference Calendar Availability section of the Court’s website at [www.sanmateocourt.org](http://www.sanmateocourt.org), and reserve an available IDC session for a

date that is, at least, ten calendar days, but no later than 29 calendar days, from the date of the request for Informal Discovery Conference.

(f) **Tolling of Deadline to File Motion.** Pursuant to Code of Civil Procedure Section 2016.080(c)(2), ~~†~~ The time for bringing any motion to compel or other discovery motion is tolled starting on the date a party makes the email request for an Informal Discovery Conference to the Court. All requests for Informal Discovery Conference must be made well prior to the expiration of the statutory time to bring a motion to compel or other discovery motion.

(g) **Email Correspondence Detailing Discovery Dispute.**

(i) Within five (5) calendar days of the initial email request to the Court for an Informal Discovery Request, the disputing parties shall, jointly or separately, email correspondence to the Court at [IDC@sanmateocourt.org](mailto:IDC@sanmateocourt.org), and contemporaneously to all parties, an electronic letter of no more than five (5) pages, without attachments, summarizing the discovery dispute(s). It shall include on the first line (i) the case name and number, (ii) the date and time reserved by the parties for the Informal Discovery Conference, (iii) the estimated length of the IDC session, and (iv) *whether the requesting party will be appearing remotely using Zoom or by telephone confer (and if telephone conference, then the telephone number and any access code for the IDC conference call, (which the requesting party is required to set up and schedule themselves).*

(ii) Failure to timely provide the Court with email correspondence summarizing the discovery dispute(s) may, and likely will, result in the Informal Discovery Conference being vacated/cancelled, ***or advanced and concluded***; and tolling of the time to file and serve any discovery motion will cease.

(h) **Statutory Declaration Waived.** The Court waives the statutory ***any*** requirement for the parties involved in the discovery dispute to file “meet and confer” declarations pursuant to Code of Civil Procedure Sections 2016.040 or 2016.080(b) prior to the Informal Discovery Conference. The dispute will be addressed by the e-correspondence method/procedure set forth above; and the parties are requested not to file any such declarations unless and until the Informal Discovery Conference is unsuccessful and a formal discovery motion is subsequently filed.

(i) **Email Requirements.**

(i) All communications to the [IDC@sanmateocourt.org](mailto:IDC@sanmateocourt.org) email address must include in the header “subject line” the Case Number and Name of Case (e.g., 19CIV06543 Smith v. Jones).

(ii) All correspondence regarding any Informal Discovery Conference, such as IDC letter briefs, requests to take matters off calendar, and requests for rescheduling, shall be submitted electronically, rather than paper, by e-mail addressed to [IDC@sanmateocourt.org](mailto:IDC@sanmateocourt.org). All electronic correspondence must be sent in at least 12 point type. ***All electronic correspondence with the IDC Department must also be contemporaneously sent to opposing counsel or opposing self-represented parties.*** The IDC Department’s email address is for the sending and receiving of correspondence, and is not a venue for back-and-forth communications with the Civil Commissioner.

(iii) Communications to the IDC email address are not part of the official court files; and will be retained for at least 90 days and then be subject to deletion (destruction) thereafter.

(j) **Authorization of Civil Commissioner.**

(i) Good cause appearing, the Civil Commissioner may, and is authorized to, continue the Informal Discovery Conference, or schedule further proceedings on the same discovery disputes via Informal Discovery Conference. The Civil Commissioner shall enter minutes in the civil case docket indicating that an Informal Discovery Conference was held, the date held, the counsel and parties attending, and whether or not all discovery disputes were resolved.

(ii) If a party to a discovery dispute is notified of the Informal Discovery Conference and fails to appear, the Civil Commissioner may, and is authorized to, reschedule or cancel *or conclude* the Informal Discovery Conference, or issue an Order to Show Cause Re: Sanctions for failure to appear.

(k) **Motion if Unresolved Discovery Disputes.** If any discovery dispute is not resolved following the Informal Discovery Conference, any party may proceed to file and calendar hearing on a motion to compel or other discovery motion in the department of the Civil Judge assigned to that civil case. *The tolling (stay) of the time for bringing any motion to compel or other discovery motion, as set forth in Local Rule 3.700(f), is automatically lifted, and no longer tolled, upon completion of the Informal Discovery Conference, unless otherwise stipulated by counsel for the parties in writing, pursuant to Code of Civil Procedure Section 2016.030.*

## UNLAWFUL DETAINER ACTIONS

3.1200 **Law & Motion Matters in Unlawful Detainer Actions.** All Unlawful Detainer actions, pursuant to Code of Civil Procedure Section 1159 et seq., will be randomly assigned to a single Civil Judge for all purposes at the time of filing of the action. All law and motion matters in Unlawful Detainer actions shall be calendared with and adjudicated by the Civil Judge assigned to that civil case, *except that uncontested ex parte applications and uncontested motions that do not require a hearing may be determined by and order entered by Civil Commissioner as set forth in Local Rule 3.12\*\*. All contested law and motion matters, including any and all motions requiring a hearing, shall be calendared with and adjudicated by the assigned Civil Judge, not the Civil Commissioner.*

3.1201 **Special Deadlines for Unlawful Detainer Law & Motion Matters.** The Civil Law & Motion Calendar Local Rules shall apply to all unlawful detainer actions, except as otherwise provided below:

(i) Any motion to quash service of summons or motion to stay or dismiss the action on the ground of inconvenient forum, under Code of Civil Procedure Section 418.10(a), must be filed within the five (5) court day period allotted for responding to the Unlawful Detainer complaint, as required by Code of Civil Procedure Section 1167(a). Hearing on such motion shall be set between

three (3) and seven (7) calendar days thereafter, pursuant to C.C.P. Section 1167.4.

(ii) As to any demurrer or other motion regarding the pleadings, other than a motion under C.C.P. Section 418.10(a), and as to any motion pursuant to C.C.P. section 1170.5(b) or (c), the hearing thereon shall be set on the Civil Law and Motion Calendar pursuant to C.C.P. Section 1005, which requires sixteen (16) court days' notice. Any party seeking a hearing date on less than 16-court-days' notice shall be required to obtain an ex parte order shortening time pursuant to CRC Rules 3.1200-3.1207.

(iii) As to any motion to compel or other discovery motion, pursuant to C.C.P. Section 1170.8, five (5) days' notice is required. Hearing on such discovery motion shall be set between seven (7) and ten (10) court days after the date the motion is filed.

(iv) As to any motion for summary judgment or motion for judgment on the pleadings, hearing on such motion shall be set between seven (7) and ten (10) court days after the date the motion is filed. (See C.C.P. Section 1170.7.) The notice of motion must comply with CRC Rule 3.1351(a).

The parties are reminded that the time extensions triggered pursuant to Code of Civil Procedure Sections 1005(b), 1010.6, and 1013 apply to Unlawful Detainer actions. Counsel and parties are cautioned to consider the additional time for service when calendaring motions. [Example: Summary judgment motions are set on 5 days' notice but if service is by mail, 5 additional days for service must be added.]

**Rule 3.1202 Ex Parte Applications in Unlawful Detainer Actions. ~~to Advance Hearing.~~** Any motion in an Unlawful Detainer action set for hearing on a date beyond the time limitations set forth in the Code of Civil Procedure or this Local Rule may be the subject of an ex parte application by either party requesting an earlier hearing date. (See CRC Rule 3.1200 et seq.)

(a) Ex parte applications in Unlawful Detainer actions are heard by the Civil Judge assigned to that Unlawful Detainer case. The Department of each Civil Judge is available for ex parte applications two days per week at 1:30 p.m. Parties and their counsel must check the Court's website at [www.sanmateocourt.org](http://www.sanmateocourt.org) under the Civil Departments section for the specific days of the week when ex partes are heard by the assigned Civil Judge.

**(b) Uncontested ex parte applications in Unlawful Detainer actions, which do not require a hearing, may be heard and determined by the Civil Commissioner. Good cause appearing, the Civil Commissioner may, and is authorized to, determine and enter orders on uncontested ex parte applications/motions/requests, which do not involve the adjudication of any issue of disputed law or fact by the Civil Commissioner.**

**(c) Regardless of any stipulation of the parties to the contrary, any request for entry of judgment pursuant to stipulation of settlement, on the basis that the opposing party**

*breached the stipulation of settlement, shall be filed as a noticed motion for entry of judgment pursuant to CCP Section 664.6, and set for hearing before the assigned Civil Judge; or may be presented as an ex parte application before the assigned Civil Judge if the requesting party is only seeking a judgment of possession (but no monetary award). Any provision in a stipulation of the parties, instead, to have the issue of breach of a stipulation of settlement adjudicated by evidentiary hearing before the Civil Commissioner is deemed void; and will not be calendared for such evidentiary hearing.*

*(d) Except where the ex parte applicant has previously been granted a fee waiver, the applicant shall pay the ex parte application filing fee to the Clerk of the Court, located in Room A on the first floor of the Hall of Justice in Redwood City, prior to presenting the ex parte application to the Civil Judge. Ex parte applications and proof of payment must be received directly by the courtroom clerk for the Department no later than 15 minutes from the time set for ex parte hearings.*

*(e) Ex parte applications, ex parte oppositions, and all other ex parte filings in Unlawful Detainer actions on contested or potentially contested applications/requests/motions must be submitted and filed in paper form, and cannot be electronically filed. Failure to present a proposed order at the time of presentation of the ex parte application will result in denial of the ex parte application.*

*(f) Uncontested ex parte applications in Unlawful Detainer actions that do not require notice or hearing may be electronically filed.*

*(g) Ex parte applicants and opponents must appear in person on contested or potentially contested applications/requests/motions, subject to the exceptions set forth in CRC Rule 3.1207, as ex parte remote appearances cannot be accommodated at the present time.*

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO**

<input type="checkbox"/> Hall of Justice 400 County Center Redwood City, CA 94063 94080	<input type="checkbox"/> Northern Division 1050 Mission Road South San Francisco, CA 94080	Reserved for Clerk's Office Stamp
<b>THE PEOPLE OF THE STATE OF CALIFORNIA</b> <b>Plaintiff,</b> <b>vs.</b> <b>Defendant</b>		
<b>WAIVER OF RIGHT TO COUNSEL AND ORDER          PERMITTING APPEARANCE IN PROPRIA PERSONA</b>		<b>Case Number:</b>  <b>Department No.:</b>

**Instructions:**

Fill out this form if you wish to act as your own attorney (also referred to as “pro per”). Initial the box for each item below only if you understand and agree with it, and sign and date the form on page 6. If you have any questions about anything on this form, ask your attorney or the judge.

I am the defendant in the above-entitled case. I can read and write. *Initials* \_\_\_\_\_

**CONSTITUTIONAL RIGHTS**

1. I understand that my constitutional rights include the following:
  - A. **Right to an Attorney** – I understand that I have the right to be represented by an attorney at all stages of the proceedings and, if I cannot afford to hire an attorney, one will be appointed for me by the Court. *Initials* \_\_\_\_\_
  - B. **Right to a Speedy Trial and Public Jury Trial** – I understand that I have a right to a speedy trial and a public trial by a jury of twelve citizens. *Initials* \_\_\_\_\_
  - C. **Right to Subpoena Witnesses and Records** – I understand that I have a right to the reasonable use of the subpoena power of the Court to subpoena any witnesses or any records that I may need in my defense. *Initials* \_\_\_\_\_
  - D. **Right to Confront and Cross-Examine Witnesses** – I understand that I have the right to confront in open court all witnesses who will be called to testify against me. I have the right to cross-examine those witnesses at the time of trial. *Initials* \_\_\_\_\_

E. **Right Against Self-Incrimination** – I understand that I cannot be compelled to testify unless I so desire. *Initials* \_\_\_\_\_

F. **Right to Testify and Produce Evidence** – I understand that I have the right to testify and to produce evidence on my own behalf. *Initials* \_\_\_\_\_

G. **Right to be Released on Bail** – I understand that I may have the right to be released from jail on reasonable bail or to be released on my own recognizance (“OR”) pending the trial. *Initials* \_\_\_\_\_

H. **Right to Self-Representation** – I understand that I have a right to act as my own attorney and may waive my right to the assistance of an attorney. I further understand that if I am permitted to represent myself, I will have to conduct my own defense without the assistance of an attorney. *Initials* \_\_\_\_\_

**BIOGRAPHICAL INFORMATION**

2. In support of my petition to represent myself I offer the Court the following biographical information:

A. Age \_\_\_\_\_ Year of Birth: \_\_\_\_\_

B. Education:

(1) Number of years attended school: \_\_\_\_\_

(2) High School Graduate: \_\_\_\_\_ Yes \_\_\_\_\_ No

(3) Legal Education (if any): \_\_\_\_\_

C. Employment Experience: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

D. Have you ever represented yourself in a criminal case before? If so, please give a brief description – in which court, how long ago, and on what charges?

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**DANGERS AND DISADVANTAGES TO SELF-REPRESENTATION**

3. I understand there are many dangers and disadvantages in representing myself. Among the dangers and disadvantages of not having an attorney are the following:

A. I understand that if I am permitted to represent myself it will be necessary for me, without the assistance of an attorney, to follow the rules of court, evidence and criminal law and criminal procedure. *Initials* \_\_\_\_\_

B. I understand the case against me will be handled by a prosecutor who is an experienced trial attorney. I will not be entitled to special consideration or assistance by the prosecutor, judge, or court staff. *Initials* \_\_\_\_\_

C. I understand that if I am permitted to represent myself, it will be necessary for me, without the assistance of any attorney, to defend myself, including, but not limited to: making pretrial motions; selecting a jury; making an opening statement; cross-examining the witnesses for the prosecution; subpoenaing and presenting my own witnesses; making appropriate objections and motions during the course of the trial; preparing and presenting proposed jury instructions to the Court; making the final argument; and in the event of a conviction, making appropriate motions after trial and representing myself at sentencing hearings. *Initials* \_\_\_\_\_

D. I understand that I cannot and will not receive any special consideration or assistance from the Court. I further understand that the Court will not provide me with any legal advice. *Initials* \_\_\_\_\_

E. I understand that if I wish to ask the Court for funds to be used in my defense, I will have to show good cause. I will be required to keep and show the Court receipts for anything I have purchased with the money granted to me.

*Initials* \_\_\_\_\_

F. I understand that if I am in jail, it may be difficult for me to contact witnesses and investigate my case. I understand that I will have limited access to a telephone, to legal research and to legal information which may make preparations for my defense more difficult.

*Initials* \_\_\_\_\_

G. I understand that no continuance of the trial will be allowed without a showing of good cause.

*Initials* \_\_\_\_\_

H. I understand that, depending on the stage of my case, if I change my mind and request an attorney to handle my case, the Court may deny this request, and I may have to proceed to trial without an attorney. If the Court does grant this request, the attorney will be at a disadvantage if the attorney does not have sufficient time to prepare for trial.

*Initials* \_\_\_\_\_

I. I understand that in conducting the trial, I may be limited in my movements in the courtroom. All documents, for example, will be handed to witnesses when necessary through the bailiff. I may be required to remain in my seat at counsel table.

*Initials* \_\_\_\_\_

J. I understand that I must act respectfully in court. I understand that the judge may terminate my right to act as my own attorney if I engage in serious misconduct or obstruct the administration and progress of the trial. I understand that if my right to act as my own attorney is terminated, I may have to be represented by an attorney, appointed by the judge, who will continue the case from that point.

*Initials* \_\_\_\_\_

K. I understand that if an appointed attorney does take over my case, that attorney may be at a disadvantage as a result of my self-representation. Such a disadvantage will not be considered an issue on appeal.

*Initials* \_\_\_\_\_

L. I understand that misconduct by me occurring outside of court may result in restriction or termination of my right to act as my own attorney. I also understand that my right to act as my own attorney will not shield me from disciplinary actions within jail. I will be

subject to the same disciplinary measures as all other inmates for misconduct occurring in the jail.

*Initials* \_\_\_\_\_

M. I understand that a defendant who is represented by an attorney and is convicted may complain on appeal that the attorney's assistance was ineffective. I understand that by acting as my own attorney, I am giving up any right to claim on appeal that I had ineffective assistance of counsel.

*Initials* \_\_\_\_\_

## CHARGES AND CONSEQUENCES

4. The crimes and enhancements with which I am charged are:

\_\_\_\_\_

\_\_\_\_\_

*Initials* \_\_\_\_\_

The minimum and maximum sentences for those crimes and enhancements are:

\_\_\_\_\_

\_\_\_\_\_

*Initials* \_\_\_\_\_

5. I understand that I am giving up having an attorney explain to me what crime(s) I am charged with, the elements of the crimes charged, any associated mental state required, and any possible legal defenses I might have to those charges.

*Initials* \_\_\_\_\_

6. I understand that I am giving up the right to have an attorney investigate the facts of my case and help me use those facts to present a defense to the charges in court.

*Initials* \_\_\_\_\_

7. I understand that if I am not now a United States citizen, I am giving up having an attorney analyze whether the charges could affect my right to legally remain in or return to the United States, or to become a United States citizen. I am also giving up having an attorney advise me on how I could settle my case and not harm my immigration-related rights.

*Initials* \_\_\_\_\_

8. I understand that I am giving up having an attorney determine what post-trial motions and sentencing options I may have if I am convicted, and to present these motions and options to the Court.

*Initials* \_\_\_\_\_

9. I understand that this Court advises and recommends that I accept a court-appointed attorney. The Court has advised me to not act as my own attorney. I understand that if I accept the appointment of a court-appointed attorney, a trial attorney will be assigned to defend me. I understand that the attorney would be able to investigate my case, file pretrial motions, and conduct the trial.

*Initials* \_\_\_\_\_

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**I have read, understood, and considered all the above warnings included in this form, and I still want to act as my own attorney. I freely and voluntarily give up my right to have an attorney represent me.**

Dated: \_\_\_\_\_

Signed: \_\_\_\_\_

*Defendant's Signature*

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**INTERPRETER'S STATEMENT (If applicable)**

I, having been duly sworn or having a written oath on file, certify that I accurately translated this Advisement and Waiver of Right to Counsel (*Faretta* waiver) form to the defendant in the language indicated below. The defendant stated that defendant understood the contents on the form, and then initialed and signed the form.

Language: \_\_\_\_\_  
(Specify)

Dated: \_\_\_\_\_

Signed: \_\_\_\_\_  
*Court Interpreter*

\_\_\_\_\_  
*Type or Print Name*

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The court finds that the defendant has been advised of defendant's constitutional rights and the dangers and disadvantages of self-representation. The defendant has made a voluntary, knowing, and intelligent waiver of the right to counsel. The court grants the defendant's request for self-representation.

Dated: \_\_\_\_\_

Signed: \_\_\_\_\_

*Judge of the Superior Court*